UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _15 September 2008_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _18-23 and 29-32_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _18-23, and 29-32_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

2.   Claims 18 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the enablement requirement. The claim(s) contains subject matter which was not described

in the specification in such a way as to enable one skilled in the art to which it pertains, or with

which it is most nearly connected, to make and/or use the invention. The claims recite the

method of "forming one or more surrogate proxy user agents," however the specification does

not disclose how to "form" a proxy user agent.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102

of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art

to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

2002/0173308 to Dorenbosch et al (hereinafter Dorenbosch) in view of US 2004/0107143 to

Niemi.

Regarding claim 18, Dorenbosch teaches a method for best effort delivery messaging for a recipient user agent, comprising the steps of:

as directed by the recipient user agent, forming one or more surrogate proxy user agents for the recipient user agent (Dorenbosch, Paragraph [0002] discloses that, "In addition to the above components, the IM system also includes an IM proxy according to the present invention that is located in a message pathway between the mobile subscriber and both the IM login server and the IM message servers." These proxies are created when a user logs into the system.).

Dorenbosch does not expressly disclose utilizing a session initiation protocol, however, Niemi discloses utilizing a session initiation protocol (Niemi, [0005-0009] discloses the use of the SIP protocol to set up and tear down multimedia sessions. Paragraph [0006] discloses that the SIP protocol is an ideal base for instant messaging. [0025-0029] discloses the use of a SIP proxy between two user agents transmitting and receiving messages between each other. See also the abstract.); and

Dorenbosch discloses through operation of the surrogate proxy user agents, managing storage of multimedia data for the recipient user agent due to one or both of (a) unavailability of the recipient user agent and (b) request by the recipient user agent (Dorenbosch, See Fig. 5 as described in paragraph [0024]. If the user is unavailable, the proxy stores the message and attempts to send the message to the user until the proxy receives acknowledgement that the user has received the message. See also, Niemi, [0025-0029], SIP proxy.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine the use of SIP as taught by Niemi with the elements of Dorenbosch in

order to establish an interactive session for the rapid delivery of content to users and to facilitate

messaging between users (Niemi, [0006], [0025-0029].).

Regarding claim 19, the combination of Dorenbosch and Niemi teaches the method of

claim 18, the step of storing comprising registering the surrogate proxy user agents with a

registration entity such that notification events on changes of the recipient user agent's

availability are received by the surrogate proxy user agents surrogate proxy user agents

(Dorenbosch, Paragraph [0018] teaches registering with the IM login server which includes

presence information about other users.).

Regarding claim 20, the combination of Dorenbosch and Niemi teaches the method of

claim 18, further comprising the step of attempting delivery of the multimedia data when the

recipient user agent becomes available (Dorenbosch, Fig. 5 as described in Paragraphs [0024]-

[0027] teaches when a user returns to service the message will be sent to the user.).

Regarding claim 21, the combination of Dorenbosch and Niemi teaches the method of

claim 20, further comprising the step of ranking the multimedia data for sequentially-ordered

delivery of the multimedia data when the recipient user agent becomes available (Dorenbosch,

Paragraph [0037] teaches forwarding multiple stored messages to the agent when available. The

messages are sent in the order they are received and are ranked as such. Additionally Dorenbosch

teaches the messages pending for delivery from the proxy to the agent can be bundled and

grouped together when sent.).

Regarding claim 22, the combination of Dorenbosch and Niemi teaches a method for best

effort delivery messaging for a sending user agent, comprising the steps of:

from a list of one or more receiving user agents specified by the sending user agent

(Dorenbosch, Paragraph [0027] specifically teaches the methods for delivering a message

through the proxy in the instance where the message conversation is between more than 2 users.

It is specifically stated that the method of sending messages can be sent to 3 or more users.

Inherent to sending messages to multiple users would be a way of determining who the recipients

of the messages would be, i.e. a list.);

forming one or more surrogate proxy user agents utilizing a session initiation protocol

(Niemi, [0005-0009], [0025-0029], abstract.) for each of the receiving user agents (Dorenbosch,

Paragraph [0002] teaches "In addition to the above components, the IM system 10 also includes

an IM proxy 24 according to the present invention that is located in a message pathway between

the mobile subscriber 12 and both the IM login server 16 and the IM message servers 20, 22."

These proxies are created when a user logs into the system for each user.); and

through operation of the surrogate proxy user agent, managing storage of multimedia data

for its respective receiving user agent until the receiving user agent is disposed to receive the

multimedia data (Dorenbosch, Fig. 5 as described in Paragraphs [0024]-[0027] teaches when a

user returns to service the message will be sent to the user.).

Regarding claim 23, the combination of Dorenbosch and Niemi teaches the method of

claim 22, the step of managing comprising managing the multimedia data as distributed across a

network, and further comprising one or more of prefixing, appending, inserting, combining, and

mixing other data with the multimedia data, and one or more of blanking, deleting, and filtering

the multimedia data (Niemi, [0029], an authorization token is added to the incoming message.).

5.   Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorenbosch

in view of Niemi and further in view of Applicant's Admitted Prior Art (hereinafter AAPA).

Regarding claims 29-32, the combination of Dorenbosch and Niemi teaches the method

of claims 18 and 22, Dorenbosch and Niemi do not expressly disclose the step of forming further

comprising utilizing one or more media stream proxies with a realtime transport protocol,

however, this is disclosed in the AAPA (AAPA, [0154-0155], SIP user agents establish a session

through a proxy, location, or registrar SIP server. The message is transmitted as a media stream

as prescribed by a session description and a real time transport protocol.) .

Therefore it would have been obvious to one of ordinary skill in the art at the time of

invention to combine utilizing one or more media stream proxies with a real time transport

protocol as taught by AAPA with the method of the combination of Dorenbosch and Niemi since

it is a well known method in the prior art of facilitating data transfer (AAPA, [0154-0155], see

also figs. 8a and 8b which are illustrative of the prior art.).

Response to Arguments

6.   Applicant's arguments with respect to claims 18-23 have been considered but are moot in

view of the new ground(s) of rejection.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003.

The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

    Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RJ/

/Larry D Donaghue/
Primary Examiner, Art Unit 2454